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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 ***

6 ELIZABETH CARLEY,

7 Plaintiff,

8 vs.

9 JO GENTRY, *et al.*,

10 Defendants.

2:17-CV-02670-MMD-VCF

ORDER

11
12 Before the court is Plaintiff's Motion Requesting Return of Overpayment (ECF NO. 29).

13 The decision on Plaintiff's IFP application was initially deferred to allow the parties an opportunity
14 to resolve this matter at the Inmate Early Mediation Conference. (ECF No. 3). No resolution was reached
15 at the IEM. On December 6 2018, Plaintiff's IFP application was granted. (ECF No. 9). The Order states,
16 "pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall pay to the Clerk of the
17 United States District Court, District of Nevada, 20% of the preceding month's deposits to Plaintiff's
18 account (Elizabeth Carley, #1095997), in the months that the account exceeds \$10.00, until the full
19 \$350.00 filing fee has been paid for this action. The Clerk of the Court shall SEND a copy of this order to
20 the Finance Division of the Clerk's Office. The Clerk of the Court shall also SEND a copy of this order
21 to the attention of the Chief of Inmate Services for the Nevada Department of Corrections, P.O. Box 7011,
22 Carson City, NV 89702." *Id* at p. 2.

23 In Plaintiff's February 5, 2019 letter, she acknowledged that her IFP application has been granted,
24 and that she is paying the filing fee because she does not want money deducted from her inmate account.
25 (ECF NO. 18).

1 In the instant motion, Plaintiff is requesting a return of \$128 to her inmate account and a return of
2 \$225 to Craig Spencer. (ECF NO. 29). Plaintiff is incorrect in her calculation of the overpayment filing
3 fee amount.

4 According to the Court's accounting record, \$175 was received from Plaintiff and \$400 was
5 received from Craig Spencer (as payment for Plaintiff's filing fee), for a total of \$575. As stated in ECF
6 No. 9, the filing fee is \$350; thus, the amount over paid is \$225.

7 Accordingly,

8 IT IS HEREBY ORDERED that Plaintiff's Motion Requesting Return of Overpayment (ECF NO.
9 29) is GRANTED in part as stated above.

10 IT IS FURTHER ORDERED that the Clerk of Court return \$225 to Plaintiff as an overpayment
11 of the filing fee amount in this matter. As requested by Plaintiff, \$225 will be sent to Craig Spencer,
12 11425 McCormick Rd, #57, Jacksonville, FL 32225.

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14 DATED this 25th day of April, 2019.



15 CAM FERENBACH
16 UNITED STATES MAGISTRATE JUDGE
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